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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,916	01/13/2004	Maurice Eduardus Theodorus van Esbroeck	V0028/296361	5156

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EXAMINER	
PARSLEY, DAVID J	
ART UNIT	**PAPER NUMBER**
3643	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/756,916	VAN ESBROECK ET AL.	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 January 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 September 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 1-2-07 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-9, 11-15, 17-27, 35-37, 39-44 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,261,854 to Eiriksson.

Referring to claim 1, Eiriksson discloses a device for treating meat products comprising, at least one treatment section 2,3,4,20,22, comprising a first end – at one end of 2,3,4,20,22, a second end – the other end of 2,3,4,20,22, spaced a distance from the first end – see figure 2, and a side defined by at least one wall that connects the first and second end – see at 2 in figure 2 and column 3 lines 4-10, that connects the first end and the second end – see figure 2, wherein the treatment section comprises a space for accommodating the products – see figures 1-3, and wherein at least a part of the at least one treatment section – at 2,4, being rotatable about an axis

of rotation – see for example column 3 lines 11-30, a treatment device – at 2,20,22 for treating the products wherein the treatment device is at least partially located within the treatment section and a discharge device – at 5-8, for discharging the products from the space at a discharge point – proximate 5 as seen in figures 3-4, wherein the at least one treatment section is adapted to receive products through one of the first or second ends – see figure 4, and discharge products through the other of the first or second ends – see figure 4, wherein the discharge device can assume a discharging position – the variable opening at 5 being of sufficient size to allow the meat products to fall from the treatment section as seen in figures 3-4 and column 23-41, for discharging products which arrive at the discharge point and wherein the discharge device can assume an inactive state – the variable opening at item 5,7,8, not being of sufficient size to allow the meat products to fall from the treatment section as seen in figures 3-4 and column 4 lines 23-41, in which products which arrive at the discharge point are moved past the discharge point without being discharged – see for example figures 3-4 and column 4 lines 23-41, wherein in the discharging position the discharge device is located at least partially within the space that accommodates the products/treatment section – see at 5,7,8, in figures 3-4, and wherein the drum comprises a first end – see proximate 9 in figure 4, and an opposite second end – see proximate 12 in figure 4, spaced a distance from the first end along the axis of rotation –see figure 4, wherein the products enter the drum from the first end – see at 9 in figure 4 and exit the drum through the second end – see at 7-8 at 12 in figure 4 where the discharge opening – at 5,7,8 is located at the end of the drum – at 2,4.

Referring to claim 2, Eiriksson discloses the discharge device is moved between the discharging position and the inactive state with an actuating device – see for example the drive mechanism described in column 3 lines 10-15 and – at 15,16.

Referring to claim 3, Eiriksson discloses each treatment section is provided with its own actuating device – see at 11 in figures 2-4 and column 3 lines 10-30 where each roller – at 2, has its own gear/actuating device to control the direction of rotation of the roller.

Referring to claim 4, Eiriksson discloses the actuating device – at 11 or – at 14,15,16, is common to a plurality of treatment sections – at 2,4,20,22 as seen in figures 1-4 where item 11 drives each of the rollers – at 2.

Referring to claim 5, Eiriksson discloses the actuating device – at 14 or 15, comprises a rod, which can be actuated from outside the device – see at 14 and 15 in figures 1-4.

Referring to claim 6, Eiriksson discloses the actuating device comprises a piston-cylinder unit – at 14.

Referring to claim 8, Eiriksson discloses the actuating device – at 14-16, is designed to generate a control signal after the discharge device of the treatment section has been moved into its discharge position – see for example column 3 lines 10-46 and column 4 lines 23-41.

Referring to claim 9, Eiriksson discloses the at least one treatment section – at 4,20,22, comprises a first treatment section – at one of 4,20,22, and a second treatment section – at another of item 4,20,22, through which the products pass in succession – see figures 1-4, and wherein the actuating device is designed to move the discharge device – at 5, of the second treatment section into its discharging position before moving the discharge device – at another of items 5, of the first treatment section into its discharging position – see for example figure 3.

Referring to claim 11, Eiriksson discloses the treatment device comprises at least one . massaging element – at 2, and the discharge device – at 5, interacts wit the at least one massaging element to assume the discharging position – see for example figure 3.

Referring to claim 12, Eiriksson discloses the treatment device is designed to move with the aid of a drive – at 11 and/or – at 14-16 as seen in column 3 lines 10-30.

Referring to claim 13, Eiriksson discloses the at least one treatment section comprises a plurality of treatment sections – at 20,22, and wherein movement of the treatment devices of at least two of the plurality of treatment sections differs – see for example figures 1-4 and column 3 lines 10-30.

Referring to claim 14, Eiriksson discloses the treatment device is designed to be rotated – see for example column 3 lines 10-30.

Referring to claim 15, Eiriksson discloses the at least one treatment section comprises a plurality of treatment sections – at 20,22, and wherein the treatment devices of at least two of the plurality of treatment sections have a common bearing – see proximate 11 and 12 in figure 2.

Referring to claim 17, Eiriksson discloses the treatment devices of at least two of the plurality of treatment sections – at 20,22, are mounted on the same shaft – see for example the shaft running longitudinally through items 1-4 as seen in figure 2.

Referring to claim 18, Eiriksson discloses the treatment device rotates in a rotational direction about a substantially horizontal axis – see for example rotation about the longitudinal shaft in figures 1-4.

Referring to claim 19, Eiriksson discloses the treatment device – at 20,22, comprises at least one surface – at any of the surfaces of the treatment device, oriented at an angle to the rotational direction of the treatment device – see for example figures 1-4.

Referring to claim 20, Eiriksson discloses the treatment device – at 20,22, comprises a plurality of surfaces oriented at an angle to each other to form at least one point – see at 20,22 in figure 2.

Referring to claim 21, Eiriksson discloses the vertex angle of the at least one point is at least approximately 45 degrees – see at 20,22 in figure 2.

Referring to claim 22, Eiriksson discloses the plurality of surfaces form a plurality of points separated in the treatment section a distance from one another – see for example at 20,22 in figure 2.

Referring to claim 23, Eiriksson discloses the treatment device – at 20,22 is asymmetrically shaped – see for example figure 2.

Referring to claim 24, Eiriksson discloses the plurality of surfaces form a plurality of points – see at 20,22 in figure 2, and wherein at least some of the points have differing dimensions – see for example at 20,22 in figure 2.

Referring to claim 25, Eiriksson discloses the surfaces are integral with a wall of the treatment section – see for example at 20,22 in figure 2.

Referring to claim 26, Eiriksson discloses at least one surface – at 6, is movable along a stationary wall – at 2 of the treatment section – see for example figures 1-3.

Referring to claim 27, Eiriksson discloses an edge of the at least one surface – at 6, that is proximal the wall is situated at a distance from the wall – see for example at 6 in figures 1-4.

Referring to claim 35, Eiriksson discloses the treatment section comprises a rotatable drum – at 4, which defines the space – see figures 1-2, wherein the drum has an axis of rotation – see the shaft in the center of the drum, and a direction of rotation – see for example figures 1-2 and column 3 lines 10-30.

Referring to claim 36, Eiriksson discloses the treatment device comprises at least one blade – at 2,6, arranged in the space, wherein the at least one blade operates to cut in the space in the direction of rotation – see for example figures 1-4.

Referring to claim 37, Eiriksson discloses the treatment device comprises a rotatable roller – at 2, for massaging the deformable products, wherein the rotatable roller is arranged in the space and has an axis of rotation substantially parallel to the axis of rotation substantially parallel to the axis of rotation of the drum – see for example figures 1-4.

Referring to claim 39, Eiriksson discloses the discharge device comprises a product-guiding part – at 12, a discharge end of which is outside the treatment section – see for example figure 1.

Referring to claim 40, Eiriksson discloses the product guiding part is in the form of a gutter – see for example at 12 in figure 1.

Referring to claim 41, Eiriksson discloses the discharge device – at 5,12, when in its discharging position of discharging both the products and a substance for treating products from the space – see figures 1-2.

Referring to claim 42, Eiriksson discloses the discharge device – at 5,12, is capable when in its discharging position of discharging the products from the space and returning a substance for treating products to the space – see for example – at 5,12 in figures 1-4.

Referring to claim 43, Eiriksson discloses the discharge device is provided with perforations – see at 5 and 12 in figures 1-4.

Referring to claim 44, Eiriksson discloses the discharge device is capable when in its discharging position of discharging products from the space but not discharging a substance for treating products located in the space – see for example at 5,12 in figures 1-4.

Referring to claim 45, Eiriksson discloses at least part of a surface of the space of each treatment section is provided with a profile – see for example at 20,22, in figures 1-4.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiriksson as applied to claims 2 or 15 above, and further in view of U.S. Patent No. 4,791,705 to Corominas.

Referring to claim 7, Eiriksson does not disclose the actuating device comprises a cam track mechanism. Corominas does disclose the actuating device comprises a cam track mechanism – see at 12,20 in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the actuating device comprising a

cam track mechanism of Corominas, so as to allow for the device to be moved into different positions/orientations.

Referring to claim 16, Eiriksson does not disclose the bearing comprises a ring having a circumference along which at least one wheel moves. Corominas does disclose the bearing comprises a ring – at 20, having a circumference along which at least one wheel – at 12, moves – see for example figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the bearing of Corominas, so as to allow for the device to be easily movable into different orientations.

Claims 10 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiriksson as applied to claims 1 or 2 above, and further in view of U.S. Patent No. 4,012,808 to Strong.

Referring to claim 10, Eiriksson does not disclose the at least one treatment section comprises at least a first treatment section and a second treatment section through which the products pass in succession and wherein the actuating device is designed to move the discharge to move the discharge device of the first and the second treatment sections into their discharging position at substantially the same time. Strong does disclose the at least one treatment section – at 10,14,30,32, comprises at least a first treatment section – at 10,14,30,32, and a section treatment section – at any other of 10,14,30,32 as seen in figure 1, through which the products pass in succession – see for example figure 1, and wherein the actuating device – at 16-22, is designed to move the discharge device – at 30,32, and/or 40,42,44, of the first and second treatment sections into their discharging position at substantially the same time – see for example figures 1-3, where at least one of the items 30,32 and 40,42, are at least in position to discharge

the meat product. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the discharge devices of the first and second treatment sections moved into the discharging positions at the same time of Strong, so as to allow for the meat products to be moved through the treatment sections more quickly to increase the production capacity of the device.

Referring to claim 30, Eiriksson does not disclose the treatment device comprises a feed device for supplying a substance for treating products, wherein the feed device is arranged at least partially in the space of the treatment section. Strong does disclose the treatment device comprises a feed device – at the first of items 12, for supplying a substance for treating products, wherein the feed device is arranged to at least partially in the space of the treatment section – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the substance applied to the products of Strong, so as to allow for the meat products to be treated facilitating subsequent processing.

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiriksson as applied to claim 26 above, and further in view of U.S. Patent No. 4,836,099 to Thirode.

Referring to claim 28, Eiriksson does not disclose the at least one surface rotates about an axis of rotation and is pivotable about a hinge having a hinge axis, wherein the hinge axis is substantially parallel to the axis of rotation. Thirode does disclose the at least one surface rotates about an axis of rotation – see at 9, and is pivotable about a hinge – at 10-16, having a hinge axis, wherein the hinge axis is substantially parallel to the axis of rotation – see at 9 and where 16 meets 12 in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art

to take the device of Eiriksson and add the hinge of Thirode, so as to allow for the device to be movable into differing positions during use.

Referring to claim 29, Eiriksson as modified by Thirode further discloses at least one spring member – at 16, is provided for biasing the at least one surface to a predetermined hinge position – see for example figures 1-2 of Thirode.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eiriksson as applied to claim 1 above, and further in view of U.S. Patent No. 5,284,085 to Palm. Eiriksson does not disclose at least one wall defining the space for accommodating the products, wherein the wall comprises perforations and a chamber positioned outside the space and adjacent to the wall wherein a treatment medium is supplied from the chamber into the space or discharged from the space into the chamber via the perforations. Palm does disclose at least one wall – at 9, defining the space for accommodating the products – see between 8-9 and 1, wherein the wall comprises perforations – at 10, and a chamber – at the interior of 1, positioned outside the space and adjacent to the wall wherein a treatment medium – at 6, is supplied from the chamber into the space or discharged from the space into the chamber via the perforations – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the wall with perforations of Palm, so as to allow a liquid to be introduced into the device for treating the meat product.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eiriksson as applied to claim 1 above, and further in view of U.S. Patent No. 4,446,779 to Hubbard et al. Eiriksson does not disclose a device for the transfer of heat via a peripheral wall of the space of the treatment section. Hubbard et al. does disclose a device for the transfer of heat – at 27, via a

peripheral wall of the space of the treatment section – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the heat transfer device of Hubbard et al., so as to allow for the environment inside the device to be controlled.

Claims 33-34, 38 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiriksson as applied to claims 1 or 37 above, and further in view of U.S. Patent No. 4,214,518 to Petsche.

Referring to claim 33, Eiriksson does not disclose needles projecting into the space of the treatment section. Petsche does disclose needles – at 114, 116, projecting into the space of the treatment section – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the needles of Petsche, so as to allow for the food product to be properly conditioned during use.

Referring to claim 34, Eiriksson as modified by Petsche further discloses the needles can be moved in a controllable manner in their longitudinal direction – see for example figure 3 of Petsche.

Referring to claim 38, Eiriksson does not disclose the roller has grooves on its outer surface. Petsche does disclose the roller is provided with grooves on its outer surface – see for example figure 9 of Petsche. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Strong and add the rotatable roller of Petsche, so as to allow for the food product inside the device to be conditioned during use.

Referring to claim 46, Eiriksson does not disclose different treatment sections are formed in a common space, provision being made for a removable treatment device and removable

partitions between the different treatment sections. Petsche does disclose different treatment sections are formed in a common space, provision being made for a removable treatment device – at 114, 116, and removable partitions – see proximate 128, 134 in figure 9, between the different treatment sections. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the removable treatment device of Petsche, so as to facilitate maintenance and cleaning of the device.

Referring to claim 47, Eiriksson does not disclose the at least one treatment device has a wall which is at least partly removable. Petsche discloses the at least one treatment device – at 114, 116 of Petsche, has a wall which is at least partly removable – see for example proximate 128 and 134 of figure 9. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Eiriksson and add the removable treatment device of Petsche, so as to facilitate maintenance and cleaning of the device.

Response to Arguments

4. Regarding claims 1-6, 8-9, 11-15, 17-27, 35-37 and 39-45, the Eriksson reference US 5261854 discloses a treatment device – at 2,3,4,20,22, comprising a treatment section – at 2, which has two ends – at opposite ends of 2, and at least one sidewall – extending along 2, as seen in figures 1-4. Eriksson further discloses products being scallops may be supplied to the treatment section as seen in figure 4, and the products can be discharged from the treatment section via a discharge device – at 5-8 as seen in figures 3-4. As seen in figure 4, product is discharged through items 5,7-8 is at one end of item 2 and thus are discharged from the end of

the treatment section – at 2 and further as seen in figure 3 when the discharge device – at 5-8, is at the bottommost portion of the drum – at 2, the discharge device – at 5-8 extends to the end of the drum and thus the products can be discharged through the end in that the discharge chute – at 12 is disposed past the end – at 2 as seen in figures 2 and 4, so as to catch any product coming from/through the end of the drum. Further, the Eriksson reference discloses a plurality of treatments sections – being the forwardmost of items 4,20,22 and other treatment sections – at the middle and rear of items 2,4,20,22. The Corominas reference US 4791705, the Hubbard et al. reference US 4446779 and the Thirode reference US 4836099 are not used to disclose the plurality of treatment sections and therefore these arguments are moot.

Regarding the 35 U.S.C. 103(a) rejections applicant relies upon the arguments to independent claim 1 in that no arguments are provided specific to claims 7, 10, 16, 28-34, 38 and 46-47. Therefore, see the response to these arguments above in this paragraph of this office action.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/dp/

David Parsley
Patent Examiner
Art Unit 3643